

MONTANA LEGISLATIVE HISTORY

Chapter 388 19 77

Bill H 485 S _____

Original bill & history ☒ C

H. Committee on Education

Hearing Date(s) 2/2 ☒ C

2/4 ☒ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Education

Hearing Date(s) 3/8 ☒ C

3/31 ☒ C

_____ C

_____ C

Did this bill originate in an interim committee? ☐ Yes ☒ No

Committee _____

Report _____

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H BILL NO. 485

INTRODUCED BY

J. Gunderson, Benton Kraak, Wde

A BILL FOR AN ACT ENTITLED: "AN ACT REGARDING THE USE AND
ADMINISTRATION OF CORPORAL PUNISHMENT IN PUBLIC SCHOOLS;
AMENDING SECTION 75-6109, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-6109, R.C.M. 1947, is amended to
read as follows:

"75-6109. Power of teacher over pupils and undue
punishment. Any teacher or principal shall have the
authority to hold any pupil to a strict accountability for
any disorderly conduct in school, ~~on-the-way-to-or-from~~
~~school,~~ or during intermission or recess. Whenever a teacher
principal shall deem it necessary to inflict corporal
punishment in order to maintain orderly conduct of a pupil,
he shall administer such corporal punishment without undue
anger ~~and-only-in-the-presence-of-the-principal-if-there-be~~
~~one~~. Before any corporal punishment is administered, the
parent or guardian shall be notified of the teacher's
principal's intention to so punish his child; except that in
cases of open and flagrant defiance of the teacher,
principal, or of the authority of the school, the teacher or
principal may administer corporal punishment without giving

such notice.

Any teacher in a district not employing a district
superintendent or a principal of the school where the
teacher is assigned shall have the authority to suspend a
pupil for good cause. Where a district superintendent or
principal is employed only he shall have the authority to
suspend a pupil for good cause. Whenever a teacher suspends
a pupil, he shall notify the trustees immediately of such
action, and the trustees shall meet as soon as practicable
to consider the suspension action of the teacher.

It shall be the duty of any teacher to report the
truancy or incorrigibility of any pupil to the district
superintendent, principal, or the trustees, whichever is
applicable.

Any teacher or principal who shall maltreat or abuse
any pupil by administering any undue or severe punishment
shall be deemed guilty of a misdemeanor and, upon conviction
of such misdemeanor by a court of competent jurisdiction,
shall be fined not more than ~~one-hundred-dollars-(\$100).~~"

-End-

INTRODUCED BILL

-2-

HB 485

EDUCATION COMMITTEE

February 2, 1977

The meeting was called to order at 3:45 p.m., with all members present.

House Bill 489 was discussed first. Rep. Eudaily, chief sponsor, said the bill will not change anything for districts that want to continue their mill levy as they have been but it allows those who wish to extend it to do so. The thought is that voted levies would coincide with other levies, and by combining them with foundation program schedules would improve budgeting. If something comes up it can be sent back to the people for another vote to change the levy.

Proponents were Maurice Hickey, Dr. Kenneth Olson, Len Sergeant and Jim McGarvey. Ed Nelson spoke as an opponent. Their statements are attached.

Rep. Eudaily closed by saying that out of 454 elementary districts, 311 had to vote additional millage and out of 160 high school districts 156 voted special levies last year. In the last few years percentages of voted levies have begun to stabilize so we can begin to plan for more than one year at a time.

House Bill 449 was discussed next. Rep. Barrett, chief sponsor, said the bill would bring accreditation standards in institutions schools to a level comparable to public schools in Montana. Jim McGarvey testified as a proponent of the bill. His testimony is attached. In closing, Rep. Barrett questioned all the figures and conclusions on the fiscal note (attached). Irving Dayton said that only high school graduation is required for admission to unit of the university system. Nothing is said about being a graduate of an accredited high school. In discussion, it was decided that the only two schools this bill would apply to are those at Boulder and Warm Springs, because the age of people at Swan River and the Prison means they do not come under the compulsory education requirements.

House Bill 485 was discussed next. Rep. Gunderson, chief sponsor, said this bill would change the law on school discipline and corporal punishment. Proponents were Lloyd Markell, Len Sergeant, Chadwick Smith. Their testimony is attached.

House Bill 463 was discussed next. Rep. Holmes, chief sponsor, gave the background of the Indian Studies Act. She submitted the master plan and other material which is attached. Maurice Hickey testified as a proponent. Opponents were Harold Grey, Darryl Grey, John Sunchild, Wayne Buchanan, Dwight Billedeaux, Karen Fenton, Jessie James, Elaine Clayborn. Their testimony is attached. Bill Yellowtail, OSPI, said that the only federal funds tied to Indian enrollment are Title IV. A district must have 50% Indian enrollment or 10 Indians enrolled to qualify.

There being no further business, the meeting adjourned at 6:10 p.m.

ANN MARY DUSSAULT, Chairperson

February 4, 1977

House Bill 443 - Rep. Estenson reported that the subcommittee on the bill, Reps. Barrett and Eudaily and herself, met and consulted with concerned parties. They decided that page 2, lines 17 through 22 should be deleted. She so moved to amend the bill. The motion passed with Rep. Courtney voting no. Rep. Estenson then moved to amend the title to say that the board must provide a clear and explicit statement of reasons for termination. The motion to amend the title passed unanimously. Rep. Lund moved to amend page 2, after line 16, by adding "The action of the board is hereby final." The motion failed on a voice vote. Rep. Estenson moved that the bill DO PASS AS AMENDED. The motion passed 10-5.

House Bill 449 - Rep. Barrett moved to amend the bill as shown on the attached sheet. The motion passed unanimously. He then moved that the bill DO PASS AS AMENDED. The motion failed 7-8. Rep. Lory moved that the bill DO NOT PASS AS AMENDED and the vote be reversed. There was no objection, so the bill DO NOT PASS AS AMENDED, 8-7.

House Bill 463 - Rep. Kvaalen moved that the bill DO NOT PASS. The motion passed 14-1 abstention.

House Bill 485 - Rep. Gunderson moved to reinsert page 1, lines 14 and 15. The motion was passed unanimously. Rep. Eudaily moved to reinsert line 19 except change "principal" to "witness." The motion passed unanimously. Rep. Gunderson moved that the bill DO PASS AS AMENDED. The Motion passed 13-2.

House Bill 489 - Rep. Eudaily moved that the bill DO PASS. The motion passed 13-2.

There being no further business, the meeting adjourned at 5:40 p.m.

PETER J. GILLIGAN, JR., Vice-Chairman

	<u>HB 305 Gilligan DPAA</u>	<u>HB 391 Uhde amend</u>	<u>HB 391 Kessler DPAA</u>	<u>HB 443 Estenson DPAA</u>	<u>HB 449 Barrett DPAA</u>	<u>HB 463 Kvaalen DNP</u>	<u>HB 485 Gunderson DPAA</u>	<u>HB 489 Eudaily DP</u>
Dussault	Yes	No	No	Yes	Yes	Yes	Yes	Yes
Gilligan	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
Courtney	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Estenson	Yes	Yes	No	Yes	No	Yes	No	No
Gunderson	Yes	Yes	Yes	Yes	Yes	Abstain	Yes	Yes
Hand	Yes	Yes	No	No	No	Yes	Yes	Yes
Kennerly	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Kessler	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Uhde	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Barrett	Yes	Yes	No	Yes	Yes	Yes	No	Yes
Eudaily	Yes	No	No	Yes	No	Yes	Yes	Yes
Kvaalen	No	Yes	No	No	No	Yes	Yes	No
Lory	Yes	No	No	Yes	No	Yes	Yes	Yes
Lund	Yes	Yes	No	No	No	Yes	Yes	Yes
Meyer	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
	13 Yes 2 No	11 Yes 4 No	6 yes 9 No	10 Yes 5 No	7 Yes 8 No	14 Yes 1 Abstain	13 Yes 2 No	13 Yes 2 No

Reverse
for Lory
DNPAA

Reverse
for Lory
DNPAA

family to support and out of the Army, there was no other school he could attend and was thankful for this help, adding other members of his family were also attending.

Florence Monteau, former ABE student, now teaching kindergarten at Rocky Boy, Mont., said she went back to school after raising a large family through this program and was able to pass the G.E.D.

There was no opposition to the Bill.

In closing, Representative Kessler felt the important thing was the growth of the program and the additional funding necessary to take care of the increased enrollment.

The Chair opened the hearing for questions by the Committee. To Senator Mathers' question, Rep. Kessler replied he hoped the funding would come from the general budget but realized they have to set priorities and that this was a line item in the OSPI budget. Senator Boylan inquired if this schooling is through high school level, to which Rep. Kessler answered they went through high school graduation or the equivalent of the G.E.D.

Jim Reno, from the Adult Learning Center, Billings, responded that if a person could function at the 8th grade level, they could pass the G.E.D.; that they teach basic reading, English, history and math. Rep. Kessler added subjects like typing falls under the Vo Tech. Senator Dunkle questioned the fiscal note accompanying the Bill, to which William J. Cunneen, OSPI, responded that present funding of this program is mostly on a local level with a federal grant on a 90-10 match; that the 1 mil permissive levy is available for all of adult education, not just adult basic ed, and for those reasons this very worthwhile program needs additional funding.

There being no further questions, the Chair closed the hearing on House Bill 305.

CONSIDERATION OF HOUSE BILL No. 485: An act regarding the use and administration of corporal punishment in public schools.

Representative Jack Gunderson, District 35, Cascade, Mont., sponsor of the Bill, was called on to present his testimony. He commented that because of a discipline problem, his son had quit teaching, and asked the representative of the MEA to explain the Bill further.

Proponents of the Bill included:

Lloyd Markell, MEA, stated this had great significance for teachers and school boards because schools are in a precarious position when it comes to disciplining students in that it has been established by courts they have a right to due process and a right to a hearing

before they can be suspended from school for misconduct. Without some protection such as this Bill offers, the MEA felt teachers were open to tort charges and therefore, they have increased liability coverage for them in this regard. This Bill proposes to do what now takes place in practice, providing the teacher has authority to discipline a student in school, but if corporal punishment is involved, the teacher is to take the student to the principal who will administer the punishment. He explained the amendments the House endorsed and that because of the courts' recognizing the rights of students, it was advisable to provide whenever disciplinary action was to be taken, it would be in the presence of another person.

Len Sargent, Director, Mont. School Boards Assoc., endorsed the Bill and suggested an amendment providing for the proper individual to administer punishment in communities with no principal.

In closing, Rep. Gunderson remarked that we've taken beer away, now if we can just paddle them, we'll be okay.

The hearing was opened to questions by the Committee. Senator Blaylock commented it was his opinion that a teacher has lost control over his class when these occurrences arose and that this type of punishment does more harm than good as these kids are usually the kind who are being beat at home. Discussion centered on amending to include two witnesses, advisability of notification of a child's guardian and definition of the term "corporal punishment", with Senator Thomas remarking that the practicality of the present situation is no teacher will risk losing his job by touching a child. That the major problems arise because of the large size of some schools which breed discontent. Senator Blaylock felt teachers and principals should be supported and have definite guide lines, but that teachers should be encouraged not to use corporal punishment because of insinuations of passion, to which Senator Murray questioned what action a teacher could take with students who say teachers' can't touch them so they don't care what they do.

There being no further questions, the hearing on House Bill 485 was closed.

FURTHER CONSIDERATION OF HOUSE BILL No. 147: Staff attorney Bobinski stated the Committee could amend the Bill to include the leasing of land for the 99 year term which would require a change in the title but would not change the intent of the Bill. Discussion centered on amendments to include leasing from municipalities and pertaining to lease of land.

Senator Bill Mathers moved that the proposed AMENDMENTS BE ADOPTED to House Bill 147; motion was seconded and carried unanimously.

SENATE Education COMMITTEE

HOUSE BILL 305, 485

VISITORS' REGISTER

DATE Mar. 8,
1977

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
Rep Jack Gunderson	Dist 35	HB 485	✓	
Angela Marshall	MEA	HB 485	✓	
Bill Cunniff	Off of Supr	HB 305	✓	
Pat Lee	Billings Adult Learning Center	HB 305	✓	
Anthony La Donna	Blount Mont Magnet Council	HB 305	✓	
Florence Montau	Rocky Boy Mont Kindergarten teacher	HB 305	✓	
Linda Hornes	School Dist 16-A (Harre)	HB 305	✓	
Margaret Dalar	Chinook (ABE teacher)	HB 305	✓	
Gina McPhee	Helena - Student	HB 305	✓	
James F. Watkins	School Dist 104 Libby	HB 305	✓	
Patrick O'Leary	ABE Helena	HB 305	✓	
James Corbett	ABE Kalispell	HB 305	✓	
James Moyer	ABC Kalispell	HB 305	✓	
John Fries	Mont Nat Ed. Assn	HB 305	✓	
Jim Reno	Adult Learning Center Billings	HB 305	✓	
Donald Kessler	Sponsor - HB 305 ABE	HB 305	✓	
Kate Fichette	Mont Demo Party	HB 305	✓	
Chad Smith	Mont Sch Bds Assn	HB 485	amend	
Ken Sargent	MSBA	HB 485	amend	
Maurice J. Hickey	MEA	HB 485	✓	
John Lloyd Drew	MSB	HB 485	✓	
B. Palmer	myself	305		

NAME: Ken Sargent

DATE: 3-8-77

ADDRESS: 501 N. Sanders

1/2 E/S -

PHONE: 442-2180

REPRESENTING WHOM? MSBA

APPEARING ON WHICH PROPOSAL: HB 485

DO YOU: SUPPORT? ☒

AMEND? ☒

OPPOSE? ☐

COMMENTS: This ^{bill} ~~law~~ does not speak to those schools
which do not have a principal. OSPI reports
that there are over 400 such schools. The bill
probably needs to be amended to authorizing a
lead teacher or someone to act in the role of
principal.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DISPOSITION OF HOUSE BILL No. 410: Discussion centered on the cost of programs for the 3-5% of the state students who are gifted in comparison to the large amount of money spent on the handicapped. Senator Thomas voiced strong opposition, stating these programs can be established now without state support, and questioned the types of subjects taught as not being academic and intellectual.

Senator Dunkle moved that House Bill 410 BE CONCURRED IN; motion was seconded and carried by majority vote, with Senator Thomas voting "no". Senator Warden will carry the Bill on the floor.

DISPOSITION OF HOUSE BILL No. 653: Discussion related to the idea of taking student instructional time when staff time could be worked out presently without this legislation if the school administration would cooperate and coordinate programs better. Rep. Estenson remarked teachers would not stay after school hours for workshops under their present contracts.

Senator Fasbender moved that House Bill 653 BE NOT CONCURRED IN; motion was seconded and carried unanimously.

DISPOSITION OF HOUSE BILL No. 485: Senator Dunkle moved that the Bill be amended on page 2, line 6 as shown on the attached Standing Committee Report; motion was seconded and carried.

Senator Mathers moved that House Bill 485 AS AMENDED, BE CONCURRED IN; motion was seconded and carried by majority vote, with Senators Blaylock and Dunkle voting "no". Senator Murray will carry the Bill on the floor.

DISPOSITION OF HOUSE BILL No. 652: Senator McCallum moved that the proposed amendments as shown on the attached Standing Committee Report BE ADOPTED; motion was seconded and carried by majority vote, with Senator Dunkle voting "no".

Senator McCallum then moved that House Bill 652 AS AMENDED, BE NOT CONCURRED IN; motion was seconded and carried by majority, with Senators Smith and Warden voting "no".

DISPOSITION OF HOUSE JOINT RESOLUTION 30: Senator Mathers moved that HJR 30 BE NOT CONCURRED IN; motion was seconded and carried by majority vote, with Senator Warden voting "no".

FURTHER CONSIDERATION OF HOUSE BILL No. 816: The amendments proposed by the OSPI were discussed at great length. Senator Thomas felt mandating policy of travel was like a blank check the school district would have to pay. Also discussed were the federal requirements relating to special ed programs and funding policies.

ROLL CALL

EDUCATION COMMITTEE

45th LEGISLATIVE SESSION - 1977

Date March 31,
1977

NAME	PRESENT	ABSENT	EXCUSED
✓ Senator Chet Blaylock, Chairman	✓		
✓ Senator Ed Smith, Vice Chairman	✓		
✓ Senator George McCallum	✓		
✓ Senator Bill Mathers	✓		
✓ Senator William E. Murray	✓		
✓ Senator Frank Dunkle	✓		
✓ Senator Paul Boylan	✓		
✓ Senator Larry Fasbender	✓		
✓ Senator Bill Thomas	✓		
✓ Senator Margaret Warden	✓		

Each day attach to minutes.

SENATE COMMITTEE EDUCATIONDate March 31, 1977 HOUSE Bill No. 485 Time 8:20

NAME	YES	NO
Senator Chet Blaylock, Chairman		✓
Senator Ed Smith, Vice Chairman	✓	
Senator George McCallum	✓	
Senator Bill Mathers	✓	
Senator William E. Murray	✓	
Senator Frank Dunkle		✓
Senator Paul Boylan	✓	
Senator Larry Fasbender	✓	
Senator Bill Thomas	✓	
Senator Margaret Warden	✓	

Jennie Lind
SecretaryChet Blaylock
ChairmanMotion: Senator Bill Mathers moved that House Bill No. 485BE CONCURRED IN AS AMENDED; motion was seconded and carriedby majority vote with Senators Blaylock and Dunkle voting "no".Senator Murray will carry on the floor.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 31 19 77

MR. PRESIDENT,

We, your committee on EDUCATION

having had under consideration HOUSE Bill No. 485,

Respectfully report as follows: That HOUSE Bill No. 485,

Third Reading Bill, be amended as follows:

1. Page 2, section 1, line 6.

Following: "cause"

Insert: "and to administer corporal punishment in the presence of a witness, without undue anger"

DE PASSE

AND AS SO AMENDED, BE CONCURRED IN

Bm

HOUSE BILL NO. 485

INTRODUCED BY J. GUNDERSON, BENGTSON, KVAALEN, UHDE

A BILL FOR AN ACT ENTITLED: "AN ACT REGARDING THE USE AND
ADMINISTRATION OF CORPORAL PUNISHMENT IN PUBLIC SCHOOLS;
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shall be fined not more than ~~one-hundred-dollars-(\$100).~~"

-End-

REFERENCE BILL